

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ERIC JOHN NEES,

Petitioner,

v.

GREGORY SMITH, et al.,

Respondents.

Case No. 3:10-cv-00092-MMD-VPC

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner.

This action was dismissed without prejudice, and the case closed administratively, pursuant to an order entered March 23, 2012. (Dkt. no. 54.) The dismissal resulted from petitioner's election to return to state court to exhaust his state-court remedies with respect to certain of his grounds in the amended petition. In petitioner's first motion to reopen this case, he noted that the Nevada Supreme Court had issued a ruling on his further state court proceedings in an order filed on March 17, 2015. (Dkt. no. 56.) Respondents opposed the motion to reopen this case on the basis that the Nevada Supreme Court had not yet issued remittitur. (Dkt. no. 57.) Respondents then filed a supplemental response in which they state that the Nevada Supreme Court issued its remittitur on April 14, 2015, and that they therefore do not oppose the motion to reopen this federal habeas case. (Dkt. no. 60.) Petitioner filed a second motion to reopen this case once the Nevada Supreme Court issued its remittitur. (Dkt. no. 62.) Petitioner attached a copy of the Nevada Supreme Court's

1 remittitur, which was issued on April 14, 2015. (Dkt. no. 62 at 5.) Good cause
2 appearing, this action is reopened and the Court now sets a further briefing schedule for
3 this action.

4 It is therefore ordered that petitioner's motions to reopen this action (dkt. nos. 56
5 & 62) are granted.

6 It is further ordered that, as the stay is lifted by this order, the Clerk will reopen
7 the file in this action.

8 It is further ordered that respondents will have forty-five (45) days following the
9 date of entry of this order within which to answer, or otherwise respond to, the
10 remaining grounds of the amended petition on file (dkt. no. 45).

11 It is further ordered that petitioner will have forty-five (45) days following service
12 of the answer to file and serve a reply brief. If a dispositive motion is filed, the parties
13 will brief the motion in accordance with Local Rule 7-2.

14 It is further ordered that the parties must send courtesy (paper) copies of any
15 further exhibits filed in this action to the Reno Division of this Court. Courtesy copies
16 must be mailed to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, and directed
17 to the attention of "Staff Attorney" on the outside of the mailing address label.

18 DATED THIS 9th day of March 2016.

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21 MIRANDA M. DU
22 UNITED STATES DISTRICT JUDGE
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